

Department of Justice

§ 76.19

§ 76.17 Rights of parties.

Except as otherwise limited by this part, all parties may:

- (a) Be represented, advised and accompanied by an attorney at law who is a member in good standing of the bar of the District of Columbia or of any state, territory or commonwealth of the United States;
- (b) Participate in any conference held by the Judge;
- (c) Conduct discovery in accordance with 28 CFR 76.18 and 76.21;
- (d) Agree to stipulations of fact or law, which shall be made part of the record;
- (e) Present evidence relevant to the issues at the hearing;
- (f) Present and cross-examine witnesses;
- (g) Present oral argument at the adjudicatory proceeding as permitted by the Judge; and
- (h) Submit a written brief and a proposed final order after the hearing.

§ 76.18 Authority of the Judge.

- (a) The Judge shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.
- (b) The Judge has the authority to:
 - (1) Set and change the date, time and place of the hearing upon reasonable notice to the parties;
 - (2) Continue or recess the hearing in whole or in part for a reasonable period of time;
 - (3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;
 - (4) Administer oaths and affirmations;
 - (5) Issue subpoenas in accordance with 21 U.S.C. 875 and 876 requiring the attendance of witnesses and the production of documents at dispositions or at hearings;
 - (6) Rule on motions and other procedural matters;
 - (7) Regulate the scope and timing of discovery;
 - (8) Regulate the course of the hearing and the conduct of representatives and parties;
 - (9) Examine witnesses;
 - (10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(14) Exercise such other authority as necessary to carry out the responsibilities of the Judge under this part.

(c) The Judge does not have the authority to rule upon the validity of federal statutes or regulations.

§ 76.19 Prehearing conferences.

(a) *Purpose and scope.* Upon motion of a party or in the Judge's discretion, the Judge may direct the parties or their counsel to participate in a prehearing conference at any reasonable time prior to a hearing, or during the course of a hearing, when the Judge finds that the proceeding would be expedited by such a conference. Prehearing conferences normally shall be conducted by telephone unless, in the opinion of the Judge, such method would be impractical, or when such conferences can be conducted in a more expeditious or effective manner by correspondence or personal appearance. Reasonable notice of the time, place, and manner of the prehearing conference shall be given. At the conference, the following matters may be considered:

- (1) The simplification of issues;
- (2) The necessity of amendments to pleadings;
- (3) The possibility of obtaining stipulations of facts and of the authenticity, accuracy, and admissibility of documents, which will avoid unnecessary proof;
- (4) The limitations on the number of expert or other witnesses;
- (5) Negotiation, compromise, or settlement of issues;
- (6) The exchange of copies of proposed exhibits;
- (7) The identification of documents or matters of which official notice may be required;
- (8) A schedule to be followed by the parties for completion of the actions decided at the conference; and